Co. v. *Western Union Tel. Co.*, 119 Fed. 294. At common law the defendant is not a *bonâ fide* purchaser for value, as an executory promise is not such value as to cut off equities. *Brown* v. *Welch*, 18 Ill. 343; *Keyser* v. *Angle*, 40 N. J. Eq. 481, 4 Atl. 641. Under the Uniform Sales Act, value is defined as "any consideration sufficient to support a simple contract"; but this provision is omitted from the act as adopted in New York, and common-law principles, therefore, prevail in that state. As the defendant can thus make no use of the goods sold him by the plaintiff, it seems clear that the warranty was broken and he should not be forced to pay for them.

SPECIFIC PERFORMANCE — DEFENSES — INADEQUACY OF CONSIDERATION. — The defendant, through a real estate agent, agreed to convey real estate worth about $12,000 and pay in cash $15,000 in exchange for city property of the plaintiff's worth about $15,000. The defendant's agent was secretly receiving a commission on the deal from the plaintiff. *Held*, that specific performance will not be granted. *State Security & Realty Co.* v. *Shaffer*, 20 Det. L. N. 772 (Mich. Sup. Ct., Sept. 30, 1913.)

The exercise of equity's jurisdiction to compel specific performance of a contract rests upon the sound discretion of the court in view of all the circumstances. *Norris* v. *Clark*, 72 N. H. 442, 57 Atl. 334. This specific-performance jurisdiction will not be exercised where the agreement is unconscionable, even though equity would not be justified in setting aside the contract. *Cathcart* v. *Robinson*, 5 Pet. (U. S.) 264. So, where there is evidence of unfair dealing or sharp practice coupled with inadequacy of consideration in the contract, specific performance will be refused. *Woolford* v. *Steele*, 27 Ky. L. Rep. 88, 84 S. W. 327; *Shoop* v. *Burnside*, 78 Kan. 871, 98 Pac. 202. By statute in some jurisdictions specific performance will not be granted unless it appears that the consideration was adequate. *White* v. *Sage*, 149 Cal. 613, 87 Pac. 193. But inadequacy of consideration alone is not generally enough to justify a refusal to enforce the contract specifically. *Coles* v. *Trecothick*, 9 Ves. 234; *O'Brien* v. *Boland*, 166 Mass. 481, 44 N. E. 602. If, however, the inadequacy is so great as to shock the conscience of the court and be decisive evidence of unfair dealing, specific performance will be refused. *Clitheral* v. *Ogilvie*, 1 Desaus. Eq. (S. C.) 250. In such a case the hardship on the defendant is so great as to overcome any hardship on the plaintiff resulting from the denial of an incident of his contract, and equity is better served by leaving the purchaser to his remedy at law. See *Seymour* v. *Delancey*, 3 Cowen (N. Y.) 445, 517. How gross the inadequacy must be depends on the circumstances, but the principal case seems in accord with the trend of modern authority on this point. See *Worth* v. *Watts*, 74 N. J. Eq. 609, 611, 70 Atl. 357, 358. The court need not have based its decision entirely on this ground, however. The fact that the defendant's agent received a commission from the plaintiff without the knowledge of the defendant would seem to be sufficient evidence of collusion to justify a refusal to decree specific performance. *Fish* v. *Leser*, 69 Ill. 394; *Palmer* v. *Gould*, 144 N. Y. 671, 39 N. E. 378; *Young* v. *Hughes*, 32 N. J. Eq. 372. See 15 HARV. L. REV. 318, 741.

STATUTES — INTERPRETATION — MEANING OF "MANUFACTURING ESTABLISHMENT." — A bankrupt company imported preserved cherries, which it colored, flavored, bottled, and placed upon the market as "Maraschino cherries." Creditors who had furnished supplies claim a lien upon the bankrupt's property under a statute providing for such security where the business is a "rolling mill, foundry, or other manufacturing establishment." KY. STAT., § 2487; (U. S.) ACT, July 1, 1898, c. 541; BANKRUPTCY ACT, § 64 b (5); 30 STAT. AT LARGE, 563. *Held*, that the lien attaches. *In re I. Rheinstrom & Sons Co.*, 207 Fed. 119 (Dist. Ct., E. D. Ky.).